

## FOOD CODE DIFFERENCES: 1976 CODE VS. 2005 CODE

- 1) ***Date Marking & Discarding for on-premises preparation – Critical item #1 on inspection form.*** Refrigerated, ready-to-eat, potentially hazardous food prepared and held in food establishments for more than 24 hours shall be clearly marked to indicate the date or day by which the FOOD shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified below. The day of preparation shall be counted as Day 1.
  - A. Date marking for RTE, PHF prepared on site or opened commercial containers held for more than 24 hours as specified in 3-501.17 RTE, PHF, date marking\*
  - B. Discarding RTE, PHF prepared on site or opened commercial containers held at  $\leq 41^{\circ}\text{F}$  for  $\leq 7$  days or  $> 41^{\circ}\text{F} - 45^{\circ}\text{F}$  for  $\leq 4$  days or discard as specified in 3-501.18 RTE, PHF, disposition\* if: the equipment is in place and in use in the food establishment, and within 5 years of the REGULATORY AUTHORITY'S adoption of this Code, the equipment is upgraded or replaced to maintain FOOD at a temperature of  $\leq 41^{\circ}\text{F}$ .
  - C. Commercially processed foods opened and held cold shall be clearly marked, at the time the original container is opened in a FOOD ESTABLISHMENT and if the FOOD is held for more than 24 hours, to indicate the date or day by which the FOOD shall be consumed on the PREMISES, sold, or discarded based on the temperature and time combinations specified in 3-501.17 ¶ (A) of this section.
  - D. ***Parasite Destruction written documentation maintained for fish products for 90 days specified in 3-402.11 & 3-402.12. Critical item #1 on the inspection form.*** With the exception of molluscan shellfish; Yellowfin tuna; Bluefin tuna; and Bigeye tuna; and Aquacultured FISH such as salmon, that: if raised in open water, are raised in net-pens, or are raised in land-based operations such as ponds or tanks, and are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured FISH as specified in Paragraph B) of this section, before service or sale in READY-TO-EAT form, raw, raw marinated, partially cooked, or marinated partially cooked FISH shall be: Frozen and stored at a temperature of  $-4^{\circ}\text{F}$  or below for a minimum of 168 hours (7 days) in a freezer; Frozen at  $-31^{\circ}\text{F}$  or below until solid and stored at  $-31^{\circ}\text{F}$  or below for a minimum of 15 hours; or Frozen at  $-31^{\circ}\text{F}$  or below until solid and stored at  $-4^{\circ}\text{F}$  or below for a minimum of 24 hours.
- 2) ***Cold holding  $41^{\circ}\text{F}$  or less, (food and refrigeration units) grandfathered in for five years at  $45^{\circ}\text{F}$ . \* 3-501.16 Critical items #3 and non critical#4 on the inspection form.*** Except for eggs – may still hold at  $45^{\circ}\text{F}$  or less.
- 3) ***Hot holding at  $135^{\circ}\text{F}$  or greater. \* 3-501.16 Critical item #3 on inspection form.***

- 4) ***Cooling\**** as specified in section 3-501.14. **Critical item #3 on inspection form.** Proper cooling time and temperatures of cooked POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be cooled: a) within 2 hours from 135° F to 70° F; and b) within a total of 6 hours from 135° F to 41° F or less, or to 45° F or less. POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be cooled with 4 hours to 41° F or less if prepared from ingredients at ambient temperature, such as reconstituted FOODS and canned tuna.
- 5) ***Destruction of Organisms of Public Health Concern-Cooking.\* 3-401*** **Critical item #3 on the inspection form.** Refer to Cooking Temp/Time charts; poultry and stuffed meats are still at 165° F or above for 15 seconds. FISH and MEAT (including Pork) shall be cooked to a minimum of 145 degrees F for 15 seconds. Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of 135° F. A raw animal FOOD such as raw EGG, raw FISH, raw-marinated FISH, raw MOLLUSCAN SHELLFISH, or steak tartare may be served or offered for sale upon consumer request if the establishment serves a population that is not a HIGHLY SUSCEPTIBLE POPULATION; and CONSUMER is informed or the REGULATORY AUTHORITY grants a variance.
- 6) ***Time as a Public Health Control\* 3-501.19.*** **Critical item #3 on inspection form.**
- A. Written procedures shall be prepared in advance.
  - B. If time only, rather than time in conjunction with temperature control, up to a maximum of 4 hours with: 1) initial temperature of FOOD at 41° F or lower or 135° F or greater; 2) FOOD shall be marked to indicate the time that is 4 hours past the point in time when the FOOD is removed from temperature control; 3) the FOOD shall be cooked and served, served if READY-TO-EAT, or discarded within 4 hours; 4) the FOOD in unmarked containers or PACKAGES, or marked to exceed a 4 hour-limit shall be discarded.
  - C. If time only, rather than time in conjunction with temperature control; up to a maximum of 6 hours, is used as the public health control; 1) the FOOD shall have an initial temperature of 41° F or less when removed from temperature control and the FOOD temperature may not exceed 70° F within a maximum time period of 6 hours; 2) the FOOD shall be monitored to ensure the warmest portion of the FOOD does not exceed 70 ° F during the 6 hour period; 3) the FOOD shall be marked to indicate: a) the time when the FOOD is removed from 41° F or less cold holding, and b) the time that is 6 hours past the point in time when the FOOD is removed from cold holding temperature control. 4) The FOOD shall be: a) discarded if the temperature of the food exceeds 70 ° F ; b) cooked and served, served if READY-TO-EAT, or discarded within a maximum of 6 hours from the point in time when the FOOD is removed from 41° F or less cold holding. 5) The

FOOD in unmarked containers or marked with a time that exceeds the 6 hour limit shall be discarded.

- D. A FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION may not use time as specified under ¶ (A), (B), or (C) of this section as the public health control for raw EGGS.

7) ***Personnel with Infections Restricted & Proper Reporting 2-201.11-2-201.15.***

**\*Critical item # 10 on inspection form.** The permit holder shall require FOOD EMPLOYEES to report to the PERSON IN CHARGE information about their health and activities as they relate to diseases that are transmissible through FOOD. FOOD EMPLOYEES should report the following to the PERSON IN CHARGE if they are experiencing: vomiting, diarrhea, jaundice, sore throat with fever or a lesion containing pus or infected wound that is open or draining and is on the hands or wrists (unless protected by an impermeable cover) or exposed portions of the arm. FOOD EMPLOYEES shall report if they have an illness that has been diagnosed by a health practitioner due to: *Norovirus*, *Hepatitis A*, *Shigella*, *Shiga Toxin-Producing E coli* or *Salmonella typhi*. Has been exposed to, or is the suspected source of, a CONFIRMED DISEASE OUTBREAK of: *Norovirus* within the past 48 hours of exposure, *Shiga Toxin-Producing E coli* within the past 3 days, *Salmonella* within the past 14 days or *Hepatitis A* within the past 30 days. The PERSON IN CHARGE shall ensure that a FOOD EMPLOYEE who exhibits or reports a symptom, or who reports a diagnosed illness or a history of exposure to above diseases shall exclude or restrict as specified under 2-201.12.

8) ***Preventing Contamination from Hands & Preventing Contamination When Tasting 3-301.11 & 3-301.12*** \* Critical item #11 on inspection form.

- A. FOOD EMPLOYEES shall wash their hands as specified.
- B. Except when washing fruits and vegetables, FOOD EMPLOYEES may not contact exposed, READY-TO-EAT FOODS with their bare hands and shall use suitable UTENSILS such as deli tissue, spatulas, tongs, single-use gloves, or dispensing EQUIPMENT.
- C. FOOD EMPLOYEES shall minimize bare hand and arm contact with exposed FOOD that is not in a READY-TO-EAT form.
- D. FOOD EMPLOYEES not serving a HIGHLY SUSCEPTIBLE POPULATION may contact exposed, READY-TO-EAT FOOD with their bare hands if:
  1. Written procedures are maintained in the FOOD ESTABLISHMENT and made available to the REGULATORY AUTHORITY upon request include:
    - a. Diagrams and other information showing that handwashing facilities, installed, located, equipped, and maintained as specified under subsection 5-203.11, 5-204.11, 5-205.11, 6-301.11, 6-301.102 and 6-301.14, are in an easily accessible location and in close proximity to the work station where the bare hand contact procedure is conducted;
  2. A written EMPLOYEE health policy that details how the FOOD ESTABLISHMENT complies, including:

- a. Documentation that FOOD EMPLOYEES and CONDITIONAL EMPLOYEES acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through FOOD.
  - b. Documentation that FOOD EMPLOYEES and CONDITIONAL EMPLOYEES acknowledge their responsibilities.
  - c. Documentation that the PERSON IN CHARGE acknowledges the responsibilities as specified.
  - 3. Documentation that FOOD EMPLOYEES acknowledge that they have received training in:
    - a. The RISKS of contacting the specific READY-TO-EAT FOODS with bare hands.
    - b. Proper handwashing
    - c. When to wash their hands.
    - d. Where to wash their hands.
    - e. Proper fingernail maintenance.
    - f. Prohibition of jewelry.
    - g. Good hygienic practices.
  - 4. Documentation that hands are washed before FOOD prep and as necessary to prevent cross contamination by FOOD EMPLOYEES during all hours of operation when specific READY-TO-EAT FOODS are prepared.
  - 5. Documentation that FOOD EMPLOYEES contacting READY-TO-EAT FOOD with bare hands use two or more of the following:
    - a. Double handwashing.
    - b. Nail brushes
    - c. A hand antiseptic after handwashing.
    - d. Incentive programs such as paid sick leave that assist or encourage FOOD EMPLOYEES not to work when they are ill.
  - 6. Documentation that corrective action is taken when Subparagraph D(1)-(5) of this section is not followed.
- A FOOD EMPLOYEE may not use a UTENSIL more than once to taste FOOD that is to be sold or served.

9) ***The Person-In-Charge shall demonstrate to the REGULATORY AUTHORITY knowledge of foodborne disease prevention, application of Hazard Analysis and Critical Control Point principles and the requirements of this CODE.\* 2-102.11. Critical item #13 on inspection form.***

The person-in-charge shall demonstrate this knowledge by:

- A. Having no violations of Critical Items during the current inspection;
- B. Being a certified Food Protection Manager who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM; or Local Health

Department Training (that covers pg. 24-26 of the 2005 FDA Food Code);

- C. Responding correctly to the inspector's questions and providing satisfactory explanations for each as they relate to the specific FOOD operation.

10) ***Equipment Food-Contact Surfaces and Utensils***\*- 4-602.11. **Critical item #17 on inspection form.**

- A. EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be cleaned:

- 1) Before each use with a different type of raw animal FOOD such as beef, FISH, lamb, pork or POULTRY (except when in contact with a succession of different raw animal FOODS each requiring higher cooking temperature than the previous FOOD);
- 2) Each time there is a change from working with raw FOODS to working with READY-TO-EAT FOODS;
- 3) Between uses with raw fruits and vegetables and with POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD);
- 4) Before using or storing a FOOD TEMPERATURE MEASURING DEVICE; and
- 5) At any time during the operation when contamination may have occurred.

- B. EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be cleaned throughout the day at least every 4 hours, unless: the equipment and utensils are used to prepare FOOD in a refrigerated room or utensils are in a serving situation such as a salad bar, deli, or cafeteria lines that are maintaining correct temperatures. In use UTENSILS may be stored in water that is maintained at 135° F or more and the UTENSILS and container should be cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues. In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, beverage and syrup dispensing lines and water vending equipment shall be cleaned at a frequency specified by the manufacturer or at a frequency necessary to preclude accumulation of soil or mold.

11) ***Mobile Holding Tank***. 5-401.11. **Critical item #22 on inspection form.** A SEWAGE holding tank in a mobile FOOD ESTABLISHMENT shall be:

- A. Sized 15 percent larger in capacity than the water supply tank; and
- B. Sloped to a drain that is 25 mm (1 inch) in inner diameter or greater, equipped with a shut-off valve.

**Note: Per Kentucky's state plumbers, line item A. concerning the sizing of the SEWAGE holding tank in a mobile FOOD ESTABLISHMENT will not be the same as outlined in the 2005 FDA Food Code. The Kentucky State**

**Plumbers will require that the SEWAGE holding tank in a mobile FOOD ESTABLISHMENT be 50 percent larger in capacity than the water supply tank.**

**12) *Handwashing Signage.* 6-301.14. Item # 26 on inspection form.**

A sign or poster that notifies FOOD EMPLOYEES to wash their hands shall be provided at all HANDWASHING SINKS used by FOOD EMPLOYEES and shall be clearly visible to FOOD EMPLOYEES.

**13) *Outer Openings is no longer a critical item.* Item #29 on inspection form.**

**14) *Variance Requirement\* 3-502.11. Critical item #36 on inspection form.* – A FOOD ESTABLISHMENT shall obtain a VARIANCE from the REGULATORY AUTHORITY before:**

- a. Smoking FOOD as a method of FOOD preservation
- b. Curing FOOD
- c. Using FOOD ADDITIVES or adding components such as vinegar:
  - i. As a method of FOOD preservation rather than as a method of flavor enhancement; or
  - ii. To render a FOOD so that it is not POTENTIALLY HAZARDOUS (TIME/TEMPERATURE CONTROL OF SAFETY FOOD)
- d. Packaging FOOD using a REDUCED OXYGEN PACKAGING Method except where a barrier to *Clostridium botulinum* in addition to refrigeration exists;
- E. Operating a MOLLUSCAN SHELLFISH life-support system display tank used to store and display shellfish that are offered for human consumption
- F. Custom processing animals that are for personal use as FOOD and not For sale or service in a FOOD ESTABLISHMENT;
- G. Preparing FOOD by another method that is determined by the REGULATORY AUTHORITY to require a VARIANCE; or
- H. Sprouting seeds or beans.

**15) *Reduced Oxygen Packaging\* 3-502.12. Critical item #36 on inspection form.* Except for a FOOD ESTABLISHMENT that obtains a VARIANCE as specified, a FOOD ESTABLISHMENT that PACKAGES POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) using a REDUCED OXYGEN PACKAGING method shall ensure that there are at least two barriers in place to control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*. A food establishment that packages POTENTIALLY HAZARDOUS FOOD using a REDUCED OXYGEN PACKAGING method shall have a HACCP plan.**

**16) *Food & Food Preparation for Highly Susceptible Populations\* 3-801.11 Critical item #37 on inspection form. Pasteurized Foods, Prohibited Re-Service, and Prohibited Food\****

**A FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION may not serve unpasteurized juice, raw animal foods (raw FISH, raw-marinated FISH, raw MOLLUSCAN SHELLFISH and**

**steak tartare), partially cooked animal FOOD (lightly cooked FISH, rare MEAT, soft-cooked EGGS that are made from raw EGGS and meringue, or raw seed sprouts).**

UNPACKAGED JUICE that is prepared on the premises for service or sale in a READY-TO-EAT form shall be processed under a HACCP PLAN.

Pasteurized EGGS or EGG PRODUCTS shall be substituted for raw EGGS in the preparation of: Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, EGGNOG, ice cream, and EGG-fortified BEVERAGES. Any FOOD served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environment isolation may not be re-served to others outside. Packages of FOOD from any patients, clients, or other CONSUMERS should not be re-served to PERSONS in protective environment isolation.

17) ***Consumer Advisory*\* 3-603.11. Critical item #38 on inspection form.**

**Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens.\*** If an animal FOOD such as beef, EGGS, FISH, lamb, milk, pork, POULTRY, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in READY-TO-EAT FOOD, the PERMIT HOLDER shall inform CONSUMERS of the significantly increased RISK of consuming such FOODS by way of a DISCLOSURE and REMINDER, using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.